



Citation: Beejay Ventures Ltd. (Re)
2020 BCEST 38

An appeal

- by -

Beejay Ventures Ltd. carrying on business as Visual Sound AVU
("Beejay")

- of a Determination issued by -

The Director of Employment Standards

pursuant to section 112 of the
Employment Standards Act R.S.B.C. 1996, C.113 (as amended)

PANEL: Shafik Bhalloo

FILE No.: 2020/016

DATE OF DECISION: April 27, 2020

DECISION

SUBMISSIONS

Jim Mitchell

agent on behalf of Beejay Ventures Ltd. carrying on
business as Visual Sound AVU

OVERVIEW

1. Pursuant to section 112 of the *Employment Standards Act* (the “*ESA*”), Beejay Ventures Ltd. carrying on business as Visual Sound AVU (“Beejay”) has filed an appeal of a Determination issued by a delegate of the Director of Employment Standards (the “Director”) December 19, 2019 (the “Determination”).
2. The Determination found that Beejay contravened Part 3, section 17 and 18 (wages); Part 7, section 58 (vacation pay); and Part 8, section 63 (liability resulting from length of service) of the *ESA* in respect of the employment of Richard Aker (“Mr. Aker”). The Determination ordered Beejay to pay Mr. Aker wages in the total amount of \$6,185.50 including accrued interest. The Determination also levied four administrative penalties against Beejay of \$500 each under the *Employment Standards Regulation* (the “*ESR*”) for breach of sections 17, 18, 27, and 63 of the *ESA*. The total amount of the Determination is \$8,185.50.
3. Beejay appeals the Determination on the “natural justice” and “new evidence” grounds of appeal under section 112(1)(b) and (c) of the *ESA*. Beejay seeks the Tribunal to cancel the Determination.
4. The deadline to file the appeal of the Determination was 4:30 p.m. on January 27, 2020. On January 20, 2020, the Tribunal received Beejay’s appeal filed by Jim Mitchell (“Mr. Mitchell”), Beejay’s accountant. Mr. Mitchell failed to identify on the Appeal Form and in his written submissions the grounds of appeal. On January 27, 2020, the Tribunal contacted Mr. Mitchell to request that Beejay resubmit the first page of the Appeal Form with the “Grounds of Appeal” section completed. Mr. Mitchell acceded to the Tribunal’s request on the same day.
5. On January 31, 2020, the Tribunal corresponded with the parties advising them that it had received Beejay’s appeal. In the same correspondence, the Tribunal requested the Director to produce the section 112(5) “record” (the “Record”) and notified the Director and Mr. Aker that no submissions were being sought from them on the merits of the appeal at this time.
6. The Tribunal received the Record from the Director on February 6, 2020. A copy of the same was sent to Beejay and Mr. Aker and both parties were provided an opportunity to object to its completeness by no later than March 25, 2020. Mr. Aker did not object to the completeness of the Record. Mr. Mitchell, on behalf of Beejay, emailed the Tribunal advising “you have all the documents that were submitted” but “[t]he records that are missing are the company records that were on the company computer”. Mr. Mitchell also requested that Mr. Aker appear at the appeal hearing and provide missing records and Beejay also would like to have other witnesses in attendance. The Tribunal directed Mr. Mitchell to the Tribunal’s *Rules of Practice and Procedure* and the Tribunal’s information sheet entitled “Overview of the

Appeal Process” and informed Mr. Mitchell that the Tribunal will decide how the hearing is to be conducted and that it is usually decided by written submissions only.

7. On March 30, 2020, the Tribunal, not having received any objections to the Record, informed the parties that the appeal had been assigned to a panel, that it would be reviewed, and that following the review, all or part of the appeal may be dismissed. If all or part of the appeal is not dismissed, the Tribunal would seek submissions from Mr. Aker and the Director on the merits of the appeal. Beejay will then be given an opportunity to make a final reply to those submissions, if any.
8. Based on my review of Beejay’s submissions, the section 112(5) Record, and the Reasons for the Determination (the “Reasons”), I will decide whether there is any reasonable prospect that the appeal will succeed.

ISSUE

9. The issue to be considered at this stage of the proceeding is whether the appeal should be allowed to proceed or be dismissed under section 114(1) of the *ESA*.

THE FACTS AND REASONS FOR THE DETERMINATION

Background

10. Based on the B.C. Online Corporate Registry search conducted by the delegate of the Director on April 11, 2019, with a currency date of January 18, 2019, Beejay was incorporated in British Columbia on January 30, 1970, and Randolph Peter Johnson (“Mr. Johnson”) and Lenie Johnson are listed as its directors and officers.
11. Beejay operated an audio-visual electronics business in Courtenay, British Columbia, and employed Mr. Aker as a general manager from February 1, 2006, to March 31, 2019.
12. Mr. Aker filed a complaint under section 74 of the *ESA* on April 4, 2019, alleging that Beejay contravened the *ESA* by failing to pay him regular wages, annual vacation pay, and compensation for length of service and failing to provide him wage statements and repay him a personal loan he made to the business (the “Complaint”). The delegate of the Director investigated the Complaint. During the investigation of the Complaint, Mr. Aker dropped the claims for the repayment of the personal loan and vacation pay. Further, the parties also agreed that Beejay did not issue Mr. Aker wage statements with his pay and that Beejay paid Mr. Aker termination pay in the amount equal to four weeks’ wages - \$3,526.22.

The Reasons

13. In the Reasons, the delegate notes that the outstanding issues he considered in the investigation were the following three:
 - a. What was Mr. Aker’s monthly wage?
 - b. Is Mr. Aker entitled to regular wages and if so, in what amount?
 - c. Is Mr. Aker entitled to compensation for length of service and if so, in what amount?

14. The delegate then summarizes the evidence of both parties. In the case of Mr. Aker, he notes that while there was some uncertainty with respect to Mr. Aker's monthly wage rate as he never received wage statements, he was paid a monthly salary by a mid-month draw of \$1,600.00, and the balance was paid at the end of the month. The pay periods for Mr. Aker were from the 1st of to the 15th of the month and the 16th to the end of the month.
15. He notes that according to Mr. Aker, Mr. Johnson attended the store twice a month to check in with Mr. Aker and to pay him wages as Mr. Johnson did not live in town.
16. The delegate also notes that according to Mr. Aker, Beejay operated without significant employment records, and it was common for Beejay to be late in paying wages or for the amounts to be inconsistent. Sometimes, Mr. Aker would receive cash payments from the store's cash register and the amounts would vary:

Mr. Aker received \$1,200.00 for his mid-month draw for the February 1 to 15 pay period. On March 14, he received \$600.00 that was supposed to cover the rest of the wages owed for the February 1 to 15 pay period and part of the February 16 to 28 pay period. On March 21, he received \$1,330.00 that he understood was also to apply to the pay period of February 16 to 28. He did not receive his draw for mid-March, and he was given \$600.00 in cash on March 29. After March 29, he did not receive any additional wages. Mr. Aker's wages were not accompanied by wage statements, so he was uncertain to what pay periods the payments actually applied.
17. According to Mr. Aker, when he enquired of Mr. Johnson about his outstanding wages, the latter told him not to worry about it and that it would work out. Subsequently, however, Mr. Johnson stopped accepting his telephone calls.
18. Mr. Aker also stated that on March 18, 2019, Mr. Johnson was at the store and he observed the latter hand writing a letter which he gave to him. The letter, which was dated March 3, 2019, notified Mr. Aker that the store would close permanently on March 31 and that his employment would terminate on the said date. Mr. Aker submitted the letter to the delegate and said that Mr. Johnson never attended the store on the date of the letter, March 3, as it was a Sunday and the store is closed on Sundays.
19. Mr. Aker also submitted a copy of a bank draft from Beejay, issued on May 8, 2019, along with a payroll deduction online calculator document with a handwritten note on it stating "4 weeks severance pay" (*sic*). He confirmed that the gross amount of wages on the document, \$3,526.22, was correct.
20. In the case of Beejay, the delegate notes that its information during the investigation of the Complaint was provided by Mr. Mitchell.
21. In his response to the delegate's preliminary findings letter on September 13, 2019, to Beejay indicating that Mr. Aker may be entitled to additional wages and compensation for length of service, Mr. Mitchell responded in his email of October 1, 2019, that Beejay had paid Mr. Aker all wages owed to him including his monthly salary of \$3,500 for February and March 2019. However, according to the delegate, Beejay did not provide additional employment records to show that Mr. Aker received full wages.

22. Mr. Mitchell also notes in his email that because Mr. Aker and other employees of Beejay received the same amounts each month and therefore “knew . . . their payroll details”, they “did not need or want payroll statement every month”.
23. He further submitted that based on the records Mr. Johnson received from the store, “employees were in the habit or [*sic*] taking stock items for their own use, writing up an invoice and forgetting to pay.” He also observed that Mr. Johnson allowed it and employees took holidays and days off at their own discretion and Mr. Aker was responsible to make sure the system was not abused. Mr. Johnson trusted Mr. Aker to run the store.
24. As for notice to the employees, including Mr. Aker, that the store would be closing, Mr. Mitchell stated that “all employees knew that the landlord had been notified of the closure in February, 2019 and Mr. Aker placed notices in the newspaper on March 4, 2019 to notify the public.” He states, Mr. Johnson gave the employees written notice at that time. Mr. Johnson attended the store and handed the notice of termination letter to Mr. Aker. The letter provided four weeks’ written notice to Mr. Aker, and he was paid for the remaining four weeks’ wages.
25. Based on the evidence of the parties, the delegate resolved the questions before him as follows. With respect to the question of Mr. Aker’s monthly wage rate, the delegate noted that since the parties agreed that the gross wages issued to Mr. Aker by Beejay on May 8, 2019, in the amount of \$3,526.22 represented four weeks’ wages, Mr. Aker’s weekly wage was \$881.56 (\$3,526.22 divided by 4 weeks). Therefore, Mr. Aker’s monthly wage was \$3,820.09 (\$881.56 per week x 52 weeks divided by 12 months).
26. With respect to the question of whether Mr. Aker was entitled to any regular wages, the delegate considered the requirements of sections 17 and 18 of the *ESA* that an employer must pay an employee all wages earned in a pay period within eight days after the end of the pay period and an employer must pay all wages owing to an employee within 48 hours after the employee is terminated. The delegate then reviewed the evidence of both parties and, in preferring the evidence of Mr. Aker’s over Beejay’s and finding that Mr. Aker did not receive full compensation for the period February and March 2019 and is owed \$3,910.18, reasoned as follows:

According to Mr. Aker’s evidence, he received various amounts of money at various times during February and March 2019. He argues that he was not fully paid for pay period February 1 to 15 until March 14. He indicates that he was never fully paid for pay periods February 16 to 28, March 1 to 15, and March 16 to 31, 2019. The parties agreed that Beejay did not issue wage statements with Mr. Aker’s wages, and Mr. Aker indicated that he was uncertain to what pay periods the various payments applied. He stated that Mr. Johnson told him not to worry about the outstanding wages, and he indicated that Mr. Johnson stopped accepting his calls after May 2019.

Beejay argues that Mr. Aker’s salary was \$3,500.00 per month and that he received all wages owed to him for February and March 2019. The Employer submitted documents that indicate Mr. Aker’s earnings varied from \$3,500.00 to \$3,708.00 per month from January 2018 to March 2019. The documents indicate that Mr. Aker earned \$3,500.00 per month for February and March 2019. Another document submitted by the Employer indicates that Mr. Aker’s salary was \$3,526.22 for four weeks, I have found that this translates to a salary of \$3,820.09 per month. Beejay did not explain the contradictory information contained in its evidence concerning Mr. Aker’s monthly

salary, and it did not submit additional employment records to clarify or support its position that all owed wages had been paid.

I find Beejay's evidence to be contradictory and insufficient to prove its assertions that Mr. Aker was paid appropriately for February and March 2019. On the balance of probabilities, I prefer Mr. Aker's evidence to that provided by Beejay.

Having found that Mr. Aker's monthly salary was \$3,820.09, I find that Mr. Aker earned wages of \$7,640.18 for the months of February and March 2019 (\$3,820.09 per month x 2 months).

Mr. Aker's evidence indicates, and I find that he was paid \$3,730.00 (\$1,200.00 + \$600.00 + \$1,330.00 + \$600.00) for the months of February and March 2019.

I find that Mr. Aker was paid \$3,730.00 for the months of February and March 2019, and that he should have been paid \$7,640.18.

...

I find that Mr. Aker is entitled to additional wages in the amount of \$3,910.18.

27. With respect to the claim for compensation for loss of employment, the delegate considered section 63 of the *ESA* which, in the case of an employee who has worked in excess of eight consecutive years like Mr. Aker, requires the employer to pay the employee at least eight weeks' wages or eight weeks' written working notice or a combination of both equivalent to the amount the employer is liable to pay. However, according to the delegate, Beejay failed to discharge the onus to show that it satisfied its obligation under section 63 for the following reasons:

Beejay argues that it provided Mr. Aker with four weeks' written working notice in March 2019, and four weeks' wages to fulfil Beejays' liability for a combination totalling eight weeks.

According to Mr. Aker, Mr. Johnson gave Mr. Aker a handwritten termination letter made on March 18, 2019, that was dated March 3, 2019, which indicated the store would close permanently on March 31, and that Mr. Aker's employment would terminate on that date. Mr. Aker stated that Mr. Johnson did not attend the store on Sunday, March 3, and that he did not give Mr. Aker the termination letter at that time. Mr. Aker indicated that Mr. Johnson did not attend the store on Sundays because it was always closed, and he would not have found Mr. Aker there.

Mr. Aker stated that he received a bank draft from Beejay in May 2019, that was issued on May 8, in the amount equal to four weeks' wages. The cheque was accompanied by a payroll deductions online calculator page on which was written "4 weeks severance pay". The parties agreed that the amount was correct for four weeks' wages.

Written working notice cannot be retroactive and is not effective prior to the date on which the written notice is given to an employee. Beejay argues that Mr. Aker knew in February 2019 that the store would be closing. Beejay indicates that the termination letter, dated March 3, 2019, was issued to Mr. Aker four weeks before his termination date of March 31. Mr. Aker indicates that this letter was given to him on March 18, after he watched Mr. Johnson write it in the shop. Only Mr. Aker submitted a copy of the letter in evidence.

On the balance of probabilities, I prefer Mr. Aker's evidence to that of Beejay. I find that Beejay has not proven that it discharged its liability towards Mr. Aker. I find that Beejay did not provide Mr. Aker with a combination of written working notice and money equivalent to eight weeks

wages. I find that Beejay provided two weeks' written working notice to Mr. Aker and money equivalent to four weeks' wages.

I find that Mr. Aker is entitled to additional CLOS in the amount of two weeks' wages or \$1,763.12 [(\$3,526.22 divided by 4 weeks = \$881.56 per week) x 2 weeks].

28. The delegate also issued four mandatory administrative penalties of \$500 each against Beejay, pursuant to section 98 of the *ESA* and section 29 of the *ESR*, for contraventions of sections 17, 18, 27, and 63 of the *ESA*. The administrative penalty for violation of section 27 related to the admission of Beejay in the investigation that it did not issue wage statements with Mr. Aker's pay.

SUBMISSIONS OF BEEJAY

29. As indicated previously, Beejay has invoked the "natural justice" and "new evidence" grounds of appeal in section 112(1)(b) and (c) of the *ESA*.
30. In the written submissions in support of Beejay's appeal, Mr. Mitchell states that the Determination is disputed because:
1. Mr. Aker was paid in full for all wages that were due to him.
 2. Mr. Aker determined his own payroll amount and for years has paid himself what he was owed.
 3. Mr. Aker was paid a monthly salary and was given a pay statement at the beginning of each year. As his payroll amount didn't change for the entire year he did not require monthly pay statement.
 4. Mr. Aker was paid in full for the amounts owed to him and provided a confirmation of this in his e-mail dated December 19, 2019.
31. Included with his written submissions, Mr. Mitchell has provided an email he received from Mr. Aker dated December 19, 2019, and time-stamped 8:43 p.m. ("the Email"). The Email states:

Hello Jim,

As per what we talked about, what follows is my agreement to the resolution agreed upon.

I, Richard (Rick) Aker agree that in exchange for my receiving of (*sic*) \$5000 (for debt owning) (*sic*) from Peter Johnson, I will cease all other actions related to other monies I feel I may have been owed. This includes salary, vacation pay or days off in lieu of, and severance.

I hope will fill (*sic*) the bill as per or (*sic*) conversations and I can expect a e-transfer or certified cheque very soon so that I can put this unfortunate episode of my life behind me and perhaps take my lady on that vacation I promised her.

With best regards,

Rick Aker

ANALYSIS

32. The grounds of appeal under the *ESA* are set out in section 112(1):

Appeal of director's determination

112 (1) Subject to this section, a person served with a determination may appeal the determination to the tribunal on one or more of the following grounds:

- (a) the director erred in law;
- (b) the director failed to observe the principles of natural justice in making the determination;
- (c) evidence has become available that was not available at the time the determination was being made.

33. The Tribunal has consistently held that an appeal is not simply another opportunity to argue the merits of a claim to another decision-maker. An appeal is an error correction process, and the burden is on the appellant to persuade the Tribunal that there is an error in the Determination under one of the statutory grounds of review in section 112(1).

34. It is also important to note that section 112(1) does not provide for an appeal based on errors of fact and the Tribunal has no authority to consider appeals which seek to have the Tribunal reach a different factual conclusion than was made by the Director unless the Director's findings raise an error of law: see *Britco Structures Ltd.*, BC EST # D260/03.

35. Having delineated some of the relevant principles applicable to appeals, as previously noted, Beejay has based its appeal on the "natural justice" and "new evidence" grounds. I have reviewed all of the appeal documents, the Record, and the submissions of Mr. Mitchell, and I am not persuaded of the merits of Beejay's appeal. I dismiss Beejay's appeal and my reasons follow.

Natural Justice

36. With respect to the natural justice ground of appeal, the often-quoted decision of the Tribunal in *607730 B.C. Ltd. (c.o.b. English Inn & Resort)*, BC EST # D055/05, explains that principles of natural justice are, in essence, procedural rights ensuring the parties have an opportunity to learn the case against them, the right to present their evidence, and the right to be heard by an independent decision-maker.

37. In *Imperial Limousine Service Ltd.*, BC EST # D014/05, the Tribunal expounded on the principles of natural justice as follows:

Principles of natural justice are, in essence, procedural rights ensuring that parties have an opportunity to know the case against them; the right to present their evidence; and the right to be heard by an independent decision maker. It has been previously held by the Tribunal that the Director and her delegates are acting in a quasi-judicial capacity when they conduct investigations into complaints filed under the *Act*, and their functions must therefore be performed in an unbiased and neutral fashion. Procedural fairness must be accorded to the parties, and they must be given the opportunity respond to the evidence and arguments presented by an adverse party. (see *BWI Business World Incorporated* BC EST #D050/96).

38. There is nothing in Mr. Mitchell's submissions that suggests that at any time, during the investigation of the Complaint and before the Determination was made, any natural justice rights of Beejay were infringed. To the contrary, based on my examination of the Record, I find that there is ample evidence in the exchanges and communications between the delegate and Mr. Mitchell showing that the delegate complied with the "natural justice" requirements as defined in *English Inn & Resort, supra*, and *Imperial Limousine Service Ltd., supra*.
39. While I will address the "new evidence" aspects of the written submission of Mr. Mitchell under a separate heading below, I find that Mr. Mitchell's submissions that Mr. Aker was paid all his wages and did not require wage statements because his wages did not change during the entire year were previously made by Mr. Mitchell during the investigation and rejected by the delegate in the Reasons. It would appear, at least in part, that Mr. Mitchell or Beejay is challenging the delegate's findings or conclusions of fact in this appeal. As indicated previously, the *ESA* does not provide for an appeal based on errors of fact unless those errors amount to errors of law. It is only in rare circumstances that errors of fact will amount to errors of law where they reveal "palpable and overriding error". As explained by the Tribunal in *Angel M. Dean*, BC EST # D071/12:
- A decision by the Tribunal that there has been a palpable and overriding error presupposes a finding that the factual conclusions of a delegate, or the inferences drawn from those factual conclusions, are so unsupported by the evidentiary record that there is no rational basis for the findings made, and so they are perverse or inexplicable. Put another way, an appellant will only succeed in challenging a delegate's findings of fact if she establishes that no reasonable person, acting judicially and properly instructed as to the relevant law, could have reached the conclusions set out in the determination (see *Gemex Developments Corp. v. B.C. (Assessor)* (1998) 62 BCLR 3d 354; *Delsom Estates Ltd. v. British Columbia (Assessor of Area 11 -- Richmond/Delta)* [2000] BCJ No.331).
40. In this case, I am not persuaded that the delegate's findings of fact were "perverse or inexplicable" or that the delegate made a "palpable or overriding error". To the contrary, I find there is sufficient evidence on the basis of which a reasonable person could have made the same conclusions of fact that the delegate made with respect to the regular wages and compensation for loss of employment owing to Mr. Aker.
41. For the reasons set out above, I find Beejay has failed to show a breach of the principles of natural justice.

New evidence

42. With respect to the "new evidence" ground of appeal, the Tribunal has consistently stated that the appellant relying upon this ground, at a minimum, must demonstrate that the evidence sought to be admitted as "new evidence" in the appeal was not reasonably available and could not have been provided during the complaint process. This ground of appeal furthermore requires the appellant to show, not merely state, the evidence is relevant to a material issue arising from the complaint, that it is credible, in the sense that it be reasonably capable of belief, and that it is probative, in the sense of being capable of resulting in a different conclusion than what is found in the determination. All of the foregoing requirements are conjunctive requirements that the appellant must satisfy before "new evidence" will be admitted into an appeal (see *Davies and others (Merilus Technologies Inc.)*, BC EST # D171/03).

43. There are three pieces of purported new evidence of Beejay in the appeal:
- a. “Mr. Aker determined his own payroll amount and for years has paid himself what he was owed.”
 - b. “Mr. Aker ... was given a pay statement at the beginning of each year”.
 - c. “Mr. Aker was paid in full for the amounts owed to him and provided a confirmation of this in his e-mail dated December 19, 2019” and the said Email.
44. Neither pieces of evidence in subparagraph a. and b. above would pass the first prong of the “new evidence” test in *Re Merilus Technologies, supra*, as they contain evidence that could have been, with the exercise of due diligence, presented to the Director during the investigation or adjudication of the Complaint and prior to the Determination being made. This alone disqualifies the evidence from being considered in the appeal.
45. In addition, the evidence in question lacks probative value and could not, whether considered on its own or with other evidence, have led the Director to a different conclusion on a material issue. More specifically, whether or not “Mr. Aker determined his own payroll amount and for years paid himself what he was owed”, even if true, does not prove that he was paid full wages for February and March, 2019. As for the matter of wage statements, the obligation of the employer in section 27 of the *ESA* is to provide, on every payday, a written wage statement for the pay period setting out all the required information in subsection (1). Subsection (4) provides an exemption to the wage statement requirement where the wage statement is exactly the same as in the previous pay period. Notwithstanding Beejay’s contention that Mr. Aker’s salary was \$3,500 per month, the documents Beejay submitted to the delegate during the investigation indicated that Mr. Aker’s earnings varied from \$3,500 to \$3,708.00 per month during January 2018 to March 2019 and for the “4 weeks severance pay” Mr. Aker was paid \$3,526.22. Therefore, “a pay statement at the beginning of each year”, if provided to Mr. Aker as contended in the appeal, would not suffice under section 27 of the *ESA*.
46. As for the Email, it was created at or around 8:43 p.m. on December 19, 2019, and did not exist during investigation and very likely it did not exist before the Determination was made and sent to Beejay and its directors on the same day on December 19, 2019. At least, there is not any evidence that the Delegate was privy to the Email before the Determination was made. While this may satisfy the first prong of the test in *Re Merilus, supra*, for accepting new evidence on appeal, I do not find the Email is of any probative value here. It does not, as contended by Mr. Mitchell in his written submissions, establish that Beejay paid Mr. Aker “in full for the amounts owed to him” nor Mr. Aker confirming any payment let alone a payment “in full”. Instead, the Email shows Mr. Aker confirming a discussion he had with Mr. Mitchell whereby he agreed to a resolution of his claims for \$5,000 and he was hopeful and expecting “a e-transfer or certified cheque very soon”. However, Mr. Mitchell or Beejay has not provided any evidence showing any transfer of funds in furtherance of the purported agreement in the Email which I would have thought would not be very difficult to do. In the circumstances, I find the Email, whether on its own or when considered with other evidence, would not have led the Director to a different conclusion on the material issue in this case.
47. Based on the foregoing, I find there is no merit in the “new evidence” ground of appeal.

48. In the result, I am satisfied that Beejay's appeal has no presumptive merit and has no prospect of succeeding, and I dismiss it pursuant to section 114(1)(f) of the *ESA*.

ORDER

49. Pursuant to section 115 of the *ESA*, I order the Determination dated December 19, 2019, be confirmed together with any interest that has accrued under section 88 of the *ESA*.

Shafik Bhalloo
Member
Employment Standards Tribunal